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8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**

10 In the Matter of:

11 Jess E. Benton,

12 Respondent.

FPPC Case No. 2020-00777

STIPULATION, DECISION AND ORDER

Date Submitted to Commission: June 2025

13
14 **INTRODUCTION**

15 Respondent Jess E. Benton (“Benton”) is a former Hillsborough City Council member. Benton
16 was appointed to Hillsborough City Council in 2008, serving the city council for a total of 12 years. In
17 2020 Benton left the city council and did not seek re-election.

18 The present case arose from a sworn complaint alleging violations of the conflict of interest rules.

19 The Political Reform Act¹ (“Act”) prohibits officials from making, participating in making, or
20 attempting to influence governmental decisions in which the official knows or has reason to know they
21 have a financial interest. Benton violated the Act when Benton made a governmental decision that had a
22 reasonably foreseeable material financial effect on Benton’s financial interest.

23 **SUMMARY OF THE LAW**

24 The Act and its regulations are amended from time to time. All legal references and discussions
25 of law are intended to cite statutes and regulations as they existed at the time of the violations in this
26 case.

27
28 ¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014, and all statutory
references are to this code. The regulations of the Fair Political Practice Commission are contained in Sections 18104
through 18998 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act

When enacting the Political Reform Act, the people of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities.² Thus, it was decreed that the Act “should be liberally construed to accomplish its purposes.”³

One purpose of the Act is to ensure that public officials perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them.⁴ Along these lines, the Act requires that the assets and income of public officials are required to be disclosed and in appropriate circumstances.⁵ Further, the officials should be disqualified from acting in order that conflicts of interest may be avoided.⁶

Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”⁷

Conflicts of Interest Under Section 87100

Basic Rules and Definitions

A public official⁸ may not make, participate in making, or attempt to use their official position to influence a governmental decision in which they know, or have reason to know, they have a financial interest.⁹ A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on a business entity in which the public official has a direct or indirect investment worth at least \$2,000.¹⁰

In 2020, there were four steps to determine whether a public official had a conflict of interest in a governmental decision under the Act.¹¹

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² Section 81001, subdivision (h).

³ Section 81003.

⁴ Section 81001, subdivision (b).

⁵ Sections 81002, subdivision (c), 87100, and 87200 et seq.

⁶ Sections 87100, et seq.

⁷ Section 81002, subdivision (f).

⁸ “Public Official means every member, officer, employee, or consultant of a state or local government agency. (Section 82048).

⁹ Section 87100.

¹⁰ Section 87103 and Regulation 18700, subdivision (c)(6)(A).

¹¹ Regulation 18700, subdivision (d).

Reasonable Foreseeability

First, for a conflict to exist under the Act, it must have been reasonably foreseeable that the governmental decision would have a financial effect¹² on the public official's financial interests.¹³ For a financial interest explicitly involved in a decision, a financial effect on the financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official's agency.¹⁴

Materiality

The second step is to determine if the reasonably foreseeable financial effect will be material.¹⁵ When the financial interest is a business entity, the financial effect will be material when the business entity is explicitly involved, meaning the entity is a named part in, or the subject of, the decision, including any decision in which the entity initiates the proceeding by filing an application, claim, appeal or other request for action concerning the entity with the official's agency.¹⁶

If the official's only interest in the entity is an investment interest with a value of \$25,000 or less, and if that investment interest is less than one percent of the entity's shares, the decision's effect on the official's investment interest in the entity is only material under subdivisions (a)(2)-(3) or (a)(4)(B) of Regulation 18702.1.¹⁷

Public Generally Exception

Third, the material financial effect on the public official's financial interest must not be indistinguishable from its effect on the public generally.¹⁸ A governmental decision's financial effect on a public official's financial interest is indistinguishable from its effect on the public generally if the official establishes that a significant segment of the public is affected and the effect on their financial interest is not unique compared to the effect on the significant segment.¹⁹ The burden of proof is on the official to prove this affirmative defense.

¹² "Financial effect" means an effect that provides a benefit of monetary value or provides, prevents, or avoids a detriment of monetary value. (Regulation 18700, subdivision (c)(5).)

¹³ Regulation 18700, subdivision (d)(1).

¹⁴ Regulation 18701, subdivision (a).

¹⁵ Regulation 18700, subdivision (d)(2).

¹⁶ Regulation 18702.1, subdivision (a)(1)(A)

¹⁷ Regulation 18702.1, subdivision (b).

¹⁸ Regulation 18700, subdivision (d)(3).

¹⁹ Regulation 18703, subdivision (a).

1 **Governmental Decision**

2 Fourth, the public official must have made, participated in making, or attempted to use their official
3 position to influence a governmental decision.²⁰ A governmental decision is any action taken by a
4 government agency that has a financial effect on a person other than the agency making the decision.²¹ A
5 public official makes a governmental decision if the official authorizes or directs any action, votes, appoints
6 a person, obligates, or commits the official's agency to any course of action, or enters into any contractual
7 agreement on behalf of the official's agency.²²

8 **SUMMARY OF THE FACTS**

9 **Term of Office**

10 Benton was appointed to Hillsborough City Council in 2008 and served on the Hillsborough City
11 Council until December 14, 2020. From 2012 through 2014 Benton also served as Mayor of
12 Hillsborough after being elected in the November 2012 General Election.

13 **Financial Interest**

14 Crown Castle NG West LLC ("Crown Castle") is a real estate investment trust and the largest
15 provider of shared communications infrastructure in the United States, with more than 40,000 cell towers
16 and approximately 80,000 route miles of fiber supporting small cells and fiber solutions. Crown Castle
17 has an annual revenue of \$5.8 billion (FY 2019) and is a publicly traded company.

18 Benton owned stock in Crown Castle valued at over \$2,000. On June 6, 2019, Benton acquired
19 125 shares of stock, valued at \$16,756. On July 20, 2019 Benton acquired an additional 100 shares,
20 valued at \$13,326.²³

21 The stocks were purchased through Benton's financial investment advisor. Benton stated that he
22 does not directly choose the stock purchases but entrusts that power to his financial investment advisor,
23
24
25

26 ²⁰ Regulation 18700, subdivision (d)(4).

27 ²¹ Regulation 18700, subdivision (c)(4).

28 ²² Regulation 18704, subdivision (a).

²³ Benton's decision regarding Crown Castle did not violate Government Code section 1090 because Benton's total investments in Crown Castle were under the statutory minimum ownership threshold for creating a conflict of interest under Section 1090. Because Crown Castle had hundreds of millions of outstanding shares of stock and Benton's investment in Crown Castle was only a couple hundred shares, Benton's interest was well below the 3% minimum ownership threshold.

1 who decides when to purchase and sell stocks on Benton's behalf. However, Benton receives a monthly
2 report on these activities and timely disclosed them on Statements of Economic Interest ("SEI").

3 Benton's ownership interest in these shares was timely and fully disclosed on Benton's 2019
4 Annual SEI, disclosing the fair market value between \$10,001 and \$100,000. On Benton's 2020 Leaving
5 Office SEI, covering January 1, 2020, through December 14, 2020, Benton also timely and fully
6 disclosed the shares, valuing them between \$10,001 and \$100,000 and disclosed that all Crown Castle
7 shares were disposed of on June 30, 2020. The shares were immediately disposed of at Benton's request,
8 as soon as he became aware of the conflict of interest.

9 **Governmental Decision**

10 In January 2017, Crown Castle applied for Wireless Communications Facilities Permits to build
11 and install 16 wireless communication facility sites with the Town of Hillsborough ("Hillsborough").
12 The Hillsborough City Council deemed all the applications complete and in December 2017 denied all 16
13 applications. Benton did not have a financial interest in Crown Castle at the time of these decisions.
14 Crown Castle then sued Hillsborough in federal court for the denial of the applications.

15 On June 8, 2020, Hillsborough City Council, including Benton, unanimously approved a
16 settlement agreement between Crown Castle and Hillsborough (the "Settlement Agreement").²⁴

17 **Conflicts of Interest Analysis**

18 Under the Act, there is a violation of the conflict of interest provisions when a public official
19 makes a governmental decision in which it is reasonably foreseeable that the decision would have a
20 material financial effect on any of the official's financial interests that is not indistinguishable from its
21 effect on the public generally.

22 First, it was reasonably foreseeable that the approval of the Settlement Agreement would have a
23 financial effect on Crown Castle. Crown Castle is explicitly involved in the governmental decision
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25
26 ²⁴ The Settlement Agreement did not approve the installation of any new wireless communication facility sites in
27 Hillsborough. According to the Hillsborough City Attorney, the Settlement Agreement is a binding agreement requiring
28 Crown Castle and the City of Hillsborough to each take certain actions or face potential legal ramifications. The Settlement
Agreement requires Crown Castle to submit applications for Wireless Communications Facilities Permits for each of the sites
included in the Settlement Agreement. Hillsborough is then required to review the applications and apply the process per
Hillsborough's Wireless Communications Facilities Ordinance and the Federal Communications Commission timeline.
Benton did not have a conflict of interest in any subsequent decisions regarding Crown Castle applications.

1 because it is a named party to the lawsuit and to the Settlement Agreement. Therefore, the financial effect
2 on Crown Castle is presumed to be reasonably foreseeable.

3 Second, the reasonably foreseeable financial effect is material. Crown Castle is explicitly
4 involved in the governmental decision because Crown Castle is a named party to the lawsuit and to the
5 Settlement Agreement. Therefore, the reasonably foreseeable financial effect is material.

6 The small shareholder exception in Regulation 18702.1, subdivision (b), does not apply here
7 because Benton owned more than \$25,000 in Crown Castle stock.

8 Third, there was no evidence that the reasonably foreseeable material financial effect on Crown
9 Castle was indistinguishable from the effect on the public generally.

10 Fourth, on June 8, 2020, Benton voted to approve the Settlement Agreement between Crown
11 Castle and Hillsborough.

12 Based on the foregoing, Benton had a conflict of interest with respect to the June 8, 2020,
13 governmental decision involving Crown Castle and Hillsborough.

14 VIOLATIONS

15 Count 1: Conflict of Interest

16 On June 8, 2020, Benton, owning stock valued at \$2,000 or more in Crown Castle, had a conflict
17 of interest when he made a governmental decision regarding the Crown Castle Settlement Agreement
18 that had a reasonably foreseeable material financial effect on Crown Castle, in violation of Government
19 Code Section 87100.

20 PROPOSED PENALTY

21 The present matter consists of one proposed count. The maximum penalty that may be imposed is
22 \$5,000 per count.²⁵ Thus, the maximum penalty that may be imposed for the count charged here is
23 \$5,000.

24 The present case does not qualify for the Streamline Program because violations of conflicts of
25 interests are not included in the Streamline Program.

26 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
27 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
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²⁵ See Section 83116, subdivision (c).

emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in the context of the following factors set forth in Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused by the specific violation; (2) The level of experience of the violator with the requirements of the Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission staff or any other governmental agency in a manner not constituting complete defense under Government Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and (8) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

A conflict of interest is a serious violation of the Act with a high degree of public harm. This type of violation undermines public trust in government by creating the appearance that the decision was the product of a conflict of interest. Also, such conduct contradicts the Act's decree that public officials should serve the needs of all citizens in an impartial manner—free from bias caused by their own financial interests. In this matter, Benton owned stock valued at more than \$2,000 and created a conflict of interest when Benton voted to approve the Settlement Agreement on June 8, 2020.

However, there is mitigation of the public harm in this case because Benton timely disclosed the financial interest in Crown Castle on Benton's Annual 2019 and Leaving Office SEI. Additionally, after the decision on June 8, 2020, Benton sold the Crown Castle stock to avoid any further conflicts and requested, through the Hillsborough City Attorney, advice from the FPPC regarding the effect of Benson's conflict of interest on the validity of the governmental decision. Further, the purchase of the stock was made by Benton's financial advisor independently, and Benton owned a very small percentage of the stock of Crown Castle, a large corporation. Last, Benton has no history of prior violations throughout the course of his public service.

Benton has experience with the Act's requirements. Benton served as a Hillsborough City Council member from 2008 to 2020 and served as Mayor of Hillsborough from 2012 to 2014.

The Commission has previously considered another stipulation involving a conflict of interest: *In*

1 *re the Matter of Yu Meng aka Ben Meng*; FPPC Case No. 2020-00629 (The Commission approved a
2 settlement in this matter on November 21, 2024.) Meng, as Chief Investment Officer for the California
3 Public Employees Retirement System (CalPERS), violated the Act's conflict of interest provisions by
4 making two government decisions that had a reasonably foreseeable material financial effect on Meng's
5 financial interest, The Blackstone Group, Inc. ("Blackstone"). Meng owned stock in Blackstone valued at
6 over \$2,000. The governmental decisions at issue were a \$750 million commitment to Blackstone Capital
7 Partners VII, L.P., and a commitment of up to \$1 billion to Blackstone Core Equity Partners II, L.P. The
8 Commission imposed a penalty of \$5,000 per count.

9 Here, a lesser penalty is warranted. Benton voted on a governmental decision involving Benton's
10 business interest in Crown Castle, resulting in a conflict of interest, as in *Meng*. In both cases, the stock
11 interests were timely disclosed on the relevant SEIs. In aggravation, between July 8, 2019 and June 8,
12 2020, Benton was present for 11 closed session meetings regarding the settlement with Crown Castle
13 prior to the decision to approve the Settlement Agreement.²⁶ However, the public harm is lesser than in
14 *Meng* because there was only one governmental decision here, compared to two governmental decisions
15 in *Meng*, and the amounts of the two commitments to Blackstone were considerably higher than in this
16 case since the Settlement Agreement here did not involve funds being committed to Crown Castle.
17 Finally, in mitigation, Benton voluntarily disposed of the stock shares shortly after the decision was made
18 to avoid any further conflicts of interest regarding Crown Castle.

19 Benton, via the Hillsborough City Attorney, consulted with FPPC Advice staff after the June 8,
20 2020 decision regarding the effect of Benson's conflict of interests on the town's decision regarding the
21 Settlement Agreement.

22 Benton has no prior history of violating the Act and fully cooperated with the FPPC's
23 investigation.

24 After considering the factors listed in Regulation 18361.5 and penalties in prior similar cases, a
25 penalty of \$4,500 is recommended.

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28 ²⁶ Because these were closed session meetings, the extent of Benton's participation is not clear.

1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
3 Respondent, Jess E. Benton, hereby agree as follows:

4 1. Respondent violated the Act as described in the foregoing pages, which are a true and
5 accurate summary of the facts in this matter.

6 2. This stipulation will be submitted for consideration by the Fair Political Practices
7 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

8 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
9 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
10 liability of the Respondent pursuant to Section 83116.

11 4. The Respondent has consulted with their attorney, Gary Winuk of Kaufman Legal Group,
12 APC and understands, and hereby knowingly and voluntarily waives, any and all procedural rights set
13 forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is
14 not limited to the right to appear personally at any administrative hearing held in this matter, to be
15 represented by an attorney at the Respondent's own expense, to confront and cross-examine all witnesses
16 testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
17 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
18 reviewed.

19 5. The Respondent agrees to the issuance of the decision and order set forth below. Also, the
20 Respondent agrees to the Commission imposing against it an administrative penalty in the amount of
21 \$4,500. One or more cashier's checks or money orders totaling said amount—to be paid to the General
22 Fund of the State of California—is/are submitted with this stipulation as full payment of the
23 administrative penalty described above, and same shall be held by the State of California until the
24 Commission issues its decision and order regarding the matter.

25 6. If the Commission declines to approve this stipulation—then this stipulation shall become
26 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
27 rejected, all payments tendered by the Respondent in connection with this stipulation shall be reimbursed
28 to the Respondent. If this stipulation is not approved by the Commission, and if a full evidentiary hearing

1 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
2 Director, shall be disqualified because of prior consideration of this Stipulation.

3 7. The parties to this agreement may execute their respective signature pages separately. A
4 copy of any party's executed signature page including a hardcopy of a signature page transmitted via fax
5 or as a PDF email attachment is as effective and binding as the original.

6
7 Dated: _____

8 Angela J. Brereton, Assistant Chief of Enforcement
9 Fair Political Practices Commission

10 Dated: _____

11 Jess E. Benton

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14 The foregoing stipulation of the parties "In the Matter of Jess E. Benton," FPPC No. 2022-00777 is
15 hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon
16 execution below by the Chair.

17
18 IT IS SO ORDERED.

19
20 Dated: _____

21 Adam E. Silver, Chair
22 Fair Political Practices Commission
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